

Prior Written Notice

**34 CODE OF FEDERAL REGULATIONS
SECTION 300.503 NOTICE**

**The Arizona Department of Education
Exceptional Student Services**

March 2004

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Introduction

Exceptional Student Services (ESS), a division of the Arizona Department of Education, strives to promote the development and implementation of quality education for students with disabilities. In line with this responsibility, ESS has developed this Arizona Technical Assistance System (AZ-TAS) document on the topic of prior written notice.

The prior written notice, referred to in this document as the PWN, is a vital component of the procedural safeguards that schools make available to special education students and their parents. Providing a timely and correct PWN is essential to protecting the rights of special education students and their parents.

If completed accurately, the PWN provides a clear record for the student, parent, and school of the decisions that have been made and the actions that will or will not be taken. This record may be referred to in any number of circumstances, such as subsequent meetings or dispute resolution situations, or as a clarification and reminder to all parties of commitments made. The prior written notice documents any proposals or refusals in regard to special education matters.

The basic components serve as additional reminders of the PWN's importance in informing parents of decisions that have been made. The PWN must provide: a description of the school's action(s), proposed or refused; an explanation of why the school proposes or refuses to act; a description of other options the school thought about and why they were rejected; a description of evaluations, tests, records, or reports the school used as a basis for the action proposed or refused; a description of other factors relevant to the school's proposal or refusal; a statement that procedural safeguards are available to the parents and how to get a description of them; and a statement of who the parents of a child with a disability may contact to get help in understanding their rights and the rights of their child afforded under the protection of the Individuals with Disabilities Education Act of 1997 (IDEA '97).

The purpose of this document is to give readers information, clarification, guidance, and examples relating to using the PWN. To accomplish this purpose, this AZ-TAS document discusses when and how the PWN must be provided and how the PWN fits into the overall special education process. Finally, the document suggests general tips to aid in writing effective, compliant PWNs.

This AZ-TAS document contains: (1) an initial quiz, which readers may use to assess their personal knowledge of the PWN; (2) the state and federal laws and regulations relative to the PWN; (3) guidance as to when PWNs must be provided; (4) examples of PWNs written for many common special education situations; (5) charts, which show when and how the PWN integrates with the overall special education process; (6) answers to the PWN quiz; and (7) helpful tips for writing PWNs.

The information in this document is directed to special and general education teachers, administrators, related service providers, and all interested parties who wish to know more about the PWN. Thank you for reading and utilizing our document. We hope you find it helpful.

Test Your Current Knowledge

A Prior Written Notice (PWN) Quiz

1. Under what circumstances must a public agency provide a PWN to parents?
2. Is a PWN required when a public agency conducts screening with all students in a school, grade, or class?
3. Is a PWN required when a public agency makes a referral for a special education evaluation?
4. Is a public agency responsible for sending a PWN before gathering existing evaluation data?
5. Is a public agency responsible for providing a PWN before collecting additional evaluation data (administering intellectual assessments, achievement tests, personality tests, etc.)?
6. Must a public agency provide a PWN to a parent before conducting an IEP meeting?
7. Is it necessary for a public agency to provide a PWN before implementing the proposed IEP?
8. Does a public agency have to send a PWN to assess a student's progress on annual goals?
9. Does a public agency have to provide a PWN when proposing or refusing to change special education or related services on the IEP?
10. Is a public agency responsible for providing a PWN when proposing or refusing to change annual goals, modifications, or accommodations on an existing IEP?
11. Does a public agency have to provide a PWN to change the educational placement (LRE)?
12. Is a PWN required when a public agency promotes a student from one grade to another grade?
13. Is a public agency responsible for providing a PWN when the special education program is being moved from one location to another?
14. For a student with a disability who graduates or who is no longer a student with a disability, is a public agency responsible for providing a PWN before such termination?
15. Is a PWN required when a public agency removes a student to an interim alternative educational setting (IAES) for not more than 45 calendar days for a weapons or drugs offense?

Answers to this quiz are found beginning on page 40.

When Should the Prior Written Notice Be Provided?

Eight Times to Provide the Prior Written Notice

34 CFR § 300.503 Notice:

Written notice that meets the requirements under section 300.503 (b) must be given to the parents of a child with a disability a reasonable time before the public agency—

- (i) Proposes to initiate or change identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
- (ii) Refuses to initiate change identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Eight Times a Public Agency Must Provide Section 300.503 Notice	
1.	When the public agency proposes to change identification of a student.
2.	When the public agency proposes to change the evaluation of a student.
3.	When the public agency proposes to change the educational placement of a student.
4.	When the public agency proposes to change the provision of free, appropriate public education (FAPE) to a student.
5.	When the public agency refuses to change identification of a student.
6.	When the public agency refuses to change the evaluation of a student.
7.	When the public agency refuses to change the educational placement of a student.
8.	When the public agency refuses to change the provision of FAPE to a student.

What Content Should the Prior Written Notice Include?

Seven Items the Prior Written Notice Must Contain

1. A description of the action proposed or refused by the agency
2. An explanation of why the agency proposed or refused to take the action
3. A description of any other options that the agency considered and the reasons why those options were rejected
4. A description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action
5. A description of any other factors that are relevant to the agency's proposal or refusal
6. A statement that the parents of the child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained
7. Sources for the parents to contact to obtain assistance in understanding the provisions of this part.

NOTE: The notice must be in language understandable to the general public and provided in the native language of the parents or other mode of communication used by the parent, unless it is clearly not feasible to do so.

What Circumstances Require a Prior Written Notice?

Events Requiring a Prior Written Notice	YES	NO
Identification		
Screening		X
Child study		X
Intervention strategies		X
Referral for initial evaluation	X	
Evaluation		
Collection of new data for initial evaluation and reevaluation	X	
Evaluation of progress on the annual goals		X
Administration of statewide or schoolwide assessments		X
Independent education evaluation		X
Determination of eligibility upon completion of an initial evaluation or reevaluation	X	
Eligibility issues	X	
Refusal to conduct an evaluation	X	
Educational Placement		
Initial educational placement	X	
Relocation of the special education program		X
Any change in educational placement	X	
Termination of special education and related services	X	
Transfer of student to another school or district		X
Graduation with a regular diploma	X	
Disciplinary removal for more than 10 consecutive school days	X	
Disciplinary removal for less than 10 school days		X
A series of disciplinary removals that constitute a pattern of removals	X	
Disciplinary removal to an IAES for 45 calendar days for a weapons offense	X	
Provision of FAPE		
Deletion or addition of a related service	X	
Change in annual goals on an existing IEP	X	
Increase or decrease in special educational services or related services	X	
Change in how a student will participate in statewide and districtwide assessments	X	
Review and revision to the IEP	X	
Increase or decrease to supplementary aids and services or supports to school personnel	X	
Refusal to increase a related service	X	
ESY	X	

Identification: Definition

Definition:

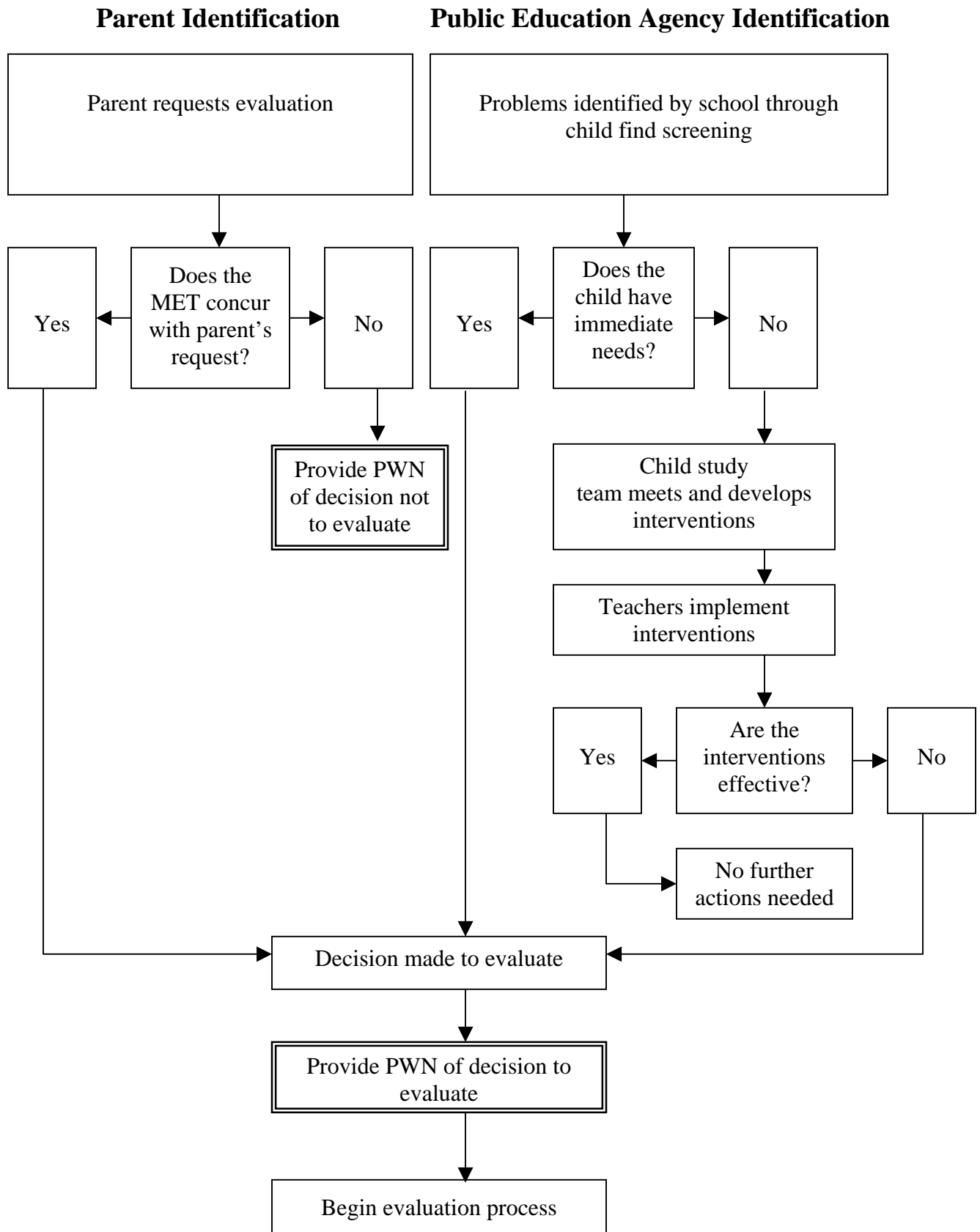
While this step in the special education process is called identification in IDEA, it is more often referred to as the referral for evaluation. Identification occurs when a decision is made to refer a preschool or school-aged student for evaluation who is not currently identified as a “child with a disability under IDEA” but is suspected of having a disability.

The purpose of the PWN at this point is to outline for the parent the decision to refer the child to the multidisciplinary evaluation team (MET) and the reasons for that referral. This PWN is provided to the parent before the review of existing data and before the decision is made to collect additional data for possible qualification for special education services.

Purpose of the Prior Written Notice:

The intent of the PWN is to provide parents with written notice of the school’s proposal or refusal to carry out an action **that affects their child**. This proposal or refusal is the decision that has been reached but not yet acted upon. The notice allows the parents time to seek resolution if they disagree with the school’s decisions.

Identification: Chart



Identification: Scenario 1

Scenario

The child study team (CST) has been working to increase Jane's academic performance in the general education classroom. The interventions implemented by the team have not been effective.

Summary

Decision—Jane is being referred for an evaluation to determine if she has a disability.

Action Proposed—The public education agency (PEA) plans to conduct an evaluation.

Prior Written Notice—A notice is required for the identification of a child with a possible disability. The next step will consist of the team's reviewing existing data to determine if any additional data is required to complete the evaluation.

Note: To save space in the example PWNs that follow, we have omitted the required sources of assistance. Be sure to include sources of assistance on your prior written notices.

Identification: PWN Example 1

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe **Date:** January 2, 2004
Agency: PDQ School District **Date PWN Sent/Given to Parents:** 01/02/04

☒ **Proposes** to *initiate* or *change* the areas as described below; **AND/OR**
☐ **Refuses** to *initiate* or *change* the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: The school is proposing to conduct an evaluation for special education for Jane. The evaluation process starts with a review of information that we already know about Jane. Following this review, the evaluation team may need to collect additional information in order to determine eligibility for special education.

Explanation of why the agency proposes or refuses to take this action: Our child study team has been working with you and Jane's teacher to increase Jane's reading ability. In spite of our joint efforts, Jane has not been making adequate progress in acquiring basic reading skills.

Description of any options the agency considered and the reasons why those options were rejected: We considered waiting until April in order to give Jane more time to catch on, however we feel that waiting would likely place her further behind.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: We considered strategies used during the child study process. These included such things as 1-1 instruction, specific practice on sound-letter relationships, phonemic awareness, and part-to-whole decoding. The special education evaluation will begin with a review of what we know about Jane's current reading status, learning modes, and general aptitude.

Description of any other factors that are relevant to the agency's proposal or refusal: Your input will be vital to this discussion and you will be included in the decisions regarding any special education eligibility. Your consent will be required before we conduct additional assessments or place Jane in our special education program.

Parents of a child with a disability have protection under the procedural safeguards.

☒ **A copy of your procedural safeguards is attached to this notice.**

☐ **A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Paulette Smith.**

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Identification: Scenario 2

Scenario

Jane's parent has requested that the CST move ahead to do a special education evaluation.

Summary

Decision—Jane's parents have submitted a written request for evaluation. The team reviewed Jane's current level of performance and determined that a special education referral was not warranted.

Action Refused—The PEA has decided not to evaluate Jane.

Prior Written Notice—A notice is required to document the school's refusal to evaluate.

Note: Sources of assistance not included on the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

Identification: PWN Example 2

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe Date: 10/21/03

Agency: PDQ School District Date PWN Sent/Given to Parents: 10/21/03

 Proposes to initiate or change the areas as described below; **AND/OR**

X *Refuses to initiate or change* the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: After consideration of the parent's request to refer Jane for a special education evaluation, the team determined that the intervention strategies utilized as a result of the child study team process appear to be working, and additional evaluation measures are not warranted.

Explanation of why the agency proposes or refuses to take this action: Jane's current classroom performance does not indicate the need for a special education evaluation at this time.

Description of any options the agency considered and the reasons why those options were rejected: The child study team, which included Jane's teacher, reviewed Jane's present level of performance, her strengths as well as her needs. The team developed several intervention strategies that the classroom teacher has since implemented. Definite improvement and progress was noted and documented. As a result, the team felt that Jane is able to progress at a significant rate when a variety of materials and methods are utilized. Testing for special education does not appear to be necessary at this time.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: A structured phonics program was implemented along with a daily guided reading session.

Description of any other factors that are relevant to the agency's proposal or refusal: Jane's classroom teacher has experience with research-based reading strategies and is able to accommodate Jane's needs within the regular classroom.

Parents of a child with a disability have protection under the procedural safeguards.

X A copy of your procedural safeguards is attached to this notice.

 A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Paul Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Evaluation Process: Definition

Definition:

The first step in the evaluation process is for the multidisciplinary evaluation team (MET) to review existing data. Existing data should include evaluations, information provided by the parents of the child, current classroom-based assessments and performance in the general curriculum, formal assessments such as state and PEA-wide assessments (if the student has taken these assessments), teacher and related services provider observations, and pre-referral interventions, including classroom interventions.

This existing data is then summarized and included as part of the evaluation report. On the basis of the review and input from the child's parents, the team must identify what additional data, if any, are needed to determine:

- Whether the child has a particular category of disability
- The present levels of educational performance and the educational needs of the child
- Whether the child needs special education and related services

The team must outline for the parents its decisions regarding the evaluation process: (1) the team must determine if additional data is necessary to determine eligibility, (2) if additional evaluation data must be gathered, the team must describe the evaluation plan, and (3) the team must then obtain parent consent for the collection of new data.

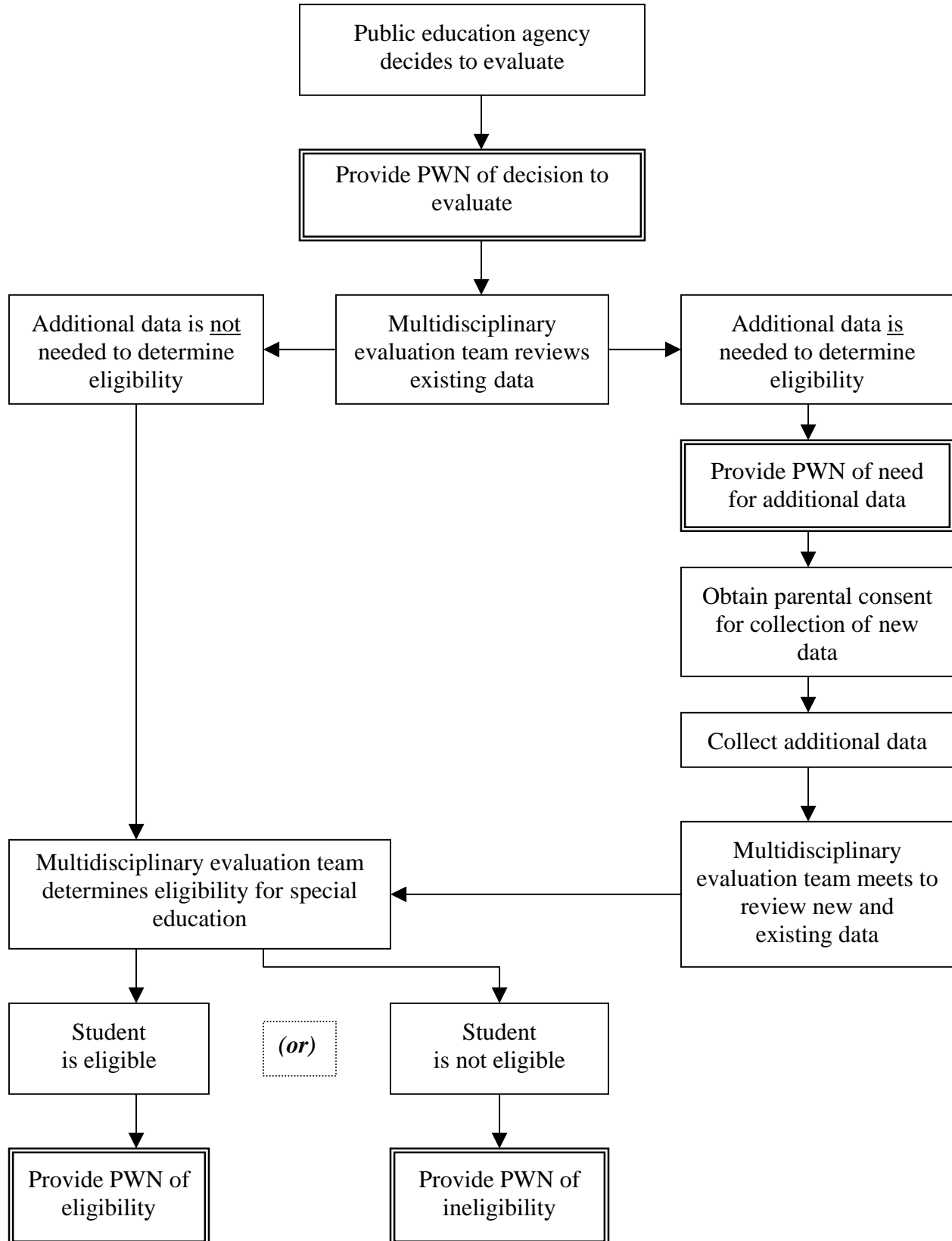
A prior written notice is provided at the time the decisions are made. The evaluation process is used to determine the child's eligibility for special education services; hence, the eligibility determination is an integral and necessary component of the evaluation process.

Note: A PWN must also be provided if additional information is to be gathered for a functional behavioral assessment, which is used in the discipline process.

Purpose of the Prior Written Notice:

The intent of the PWN is to provide parents with written notice of the school's proposal or refusal to carry out an action that affects their child. This school proposal or refusal is a decision that has been reached but not yet acted upon. The notice allows the parents time to seek resolution if they disagree with the school's decisions.

Evaluation Process: Chart



Evaluation Process: Scenario 3

Scenario

The MET team, which includes Jane's parents, has reviewed existing data and determined that more information is needed to identify Jane's present levels of educational performance and eligibility.

Summary

Decision—Additional data will be required to complete the eligibility determination for Jane.

Action Proposed—The team has decided that further testing and data collection are necessary to determine if Jane is a student with a disability.

Prior Written Notice—A notice is required to document the MET's decision after the review of existing data to collect further data. The team has identified the needed data and parental consent has been obtained.

Note: Sources of assistance are not included on the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

Evaluation Process: PWN Example 3

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe **Date:** January 22, 2004

Agency: PDQ School District **Date PWN Sent/Given to Parents:** 01/22/04

x *Proposes to initiate or change* the areas as described below; **AND/OR**

 Refuses to initiate or change the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: The school proposed to administer additional assessments to Jane in order to determine why she is not progressing satisfactorily in learning to read.

Explanation of why the agency proposes or refuses to take this action: The evaluation team reviewed existing information about Jane's past reading instruction and performance as provided by her teacher, the school reading specialist, and you (her parents). The team feels it needs additional information before making a decision about special education eligibility and appropriate interventions.

Description of any options the agency considered and the reasons why those options were rejected: The team considered basing their decision on existing data only but felt that critical information was missing that could have an impact on the eligibility and intervention decisions.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: The following assessments will be administered to Jane by the reading specialist and/or the classroom teacher: Woodcock-Johnson III, Test of Phonemic Awareness, and Test of Auditory Comprehension. The school psychologist will administer a test of general aptitude such as the Wechsler Intelligence Scale for Children (WISC) III, although another similar test may be used if, in the opinion of the psychologist, it would be more reliable for Jane.

Description of any other factors that are relevant to the agency's proposal or refusal: You will be asked to complete a parent questionnaire related to Jane's reading habits and competencies at home and in the community.

Parents of a child with a disability have protection under the procedural safeguards.

 x **A copy of your procedural safeguards is attached to this notice.**

 A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Tom Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Evaluation Process: Eligibility Definition

Definition:

A multidisciplinary evaluation team must first determine whether a child meets the criteria for a particular disability category. Second, the team must determine whether the disability adversely affects the educational performance of the child and requires special education services. After the team (which includes the parent) determines eligibility, a PWN must be provided to document the team's eligibility determination, the final step in the evaluation process.

Purpose of the Prior Written Notice:

The intent of the PWN is to provide parents with written notice of the school's proposal or refusal to carry out an action **that affects their child**. This school proposal or refusal is a decision that has been reached but not yet acted upon. The notice allows the parents time to seek resolution if they disagree with the school's decisions.

Evaluation Process: Eligibility Scenario 4

Scenario

The MET team has reviewed existing and new data. Jane's present level of performance and educational needs have been identified. Eligibility, development of the IEP, and parental consent for placement have been completed at the meeting.

Summary

Decision—The team has determined that Jane is eligible as a “child with a disability.”

Action Proposed—The MET has reviewed the new and existing data to determine first that the student does meet the criteria for specific learning disability. Second, the team has decided that the disability is adversely impacting Jane's ability to successfully access the general curriculum and she is thus eligible for services. As a result, an IEP has been developed and consent for initial placement has been obtained.

Prior Written Notice—A prior written notice is required: one PWN can serve as the proposal for the eligibility decision, the proposal for the provision of FAPE decision, and the proposal for the initial placement decision if they all occur within the same meeting. Each of these three actions, whether proposed or refused, should be outlined in each area of the notice.

Note: Sources of assistance are not included on the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

Evaluation Process: Eligibility PWN Example 4

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe Date: February 15, 2004

Agency: PDQ School District Date PWN Sent/Given to Parents: 02/15/04

 x *Proposes to initiate or change* the areas as described below; **AND/OR**
 Refuses to initiate or change the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: The school proposes to classify Jane as a student with a learning disability in the area of reading. The school also proposes to provide her with specialized instruction in reading in a resource room with other students with disabilities in accordance with her IEP.

Explanation of why the agency proposes or refuses to take this action: Jane's evaluation results indicate that she is a child with a disability, and it is unlikely that she will progress satisfactorily in reading without highly specialized 1-1 and small group assistance. While this assistance could be delivered in the regular classroom, Jane has told both her teacher and her parents that she is embarrassed to receive special attention in her general education classroom.

Description of any options the agency considered and the reasons why those options were rejected: The team considered not providing special education for reading but felt that her progress would be insufficient to achieve educational success. Jane's sensitivity to being singled out caused the team to reject special education services within her regular classroom. The team also considered a full-time special education program for Jane but determined that she does not need assistance in other areas of learning.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: Teacher and reading specialist observations and curriculum based assessments, standardized reading and language assessments, and a test of general intelligence were used to determine that Jane has a learning disability in the area of reading.

Description of any other factors that are relevant to the agency's proposal or refusal: The IEP team developed an instructional program for Jane. The district will implement the IEP immediately as a result of obtained parental consent for special education placement.

Parents of a child with a disability have protection under the procedural safeguards.

 A copy of your procedural safeguards is attached to this notice.

 X A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Paulette Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Educational Placement: Definition

Definition:

When a child has been evaluated and found to be eligible for special education, the appropriate educational placement for that child cannot be determined until decisions have been made about the child's needs and the services that the public agency will provide to meet those needs. Thus, the initial IEP must be developed before any placement decision concerning special education can be made.

Stated another way, after determining that a child is eligible for special education (i.e., the child has a disability and needs special education), the child's IEP team must then develop an appropriate IEP to meet the child's educational needs. The public agency must then make the proposal to place the child in special education in order to implement services. The PWN will include the decisions for any proposals and refusals in implementing the proposed IEP and the decision to place the student in special education. At this time the parent must agree to the initial IEP and sign consent for initial placement before any special education services can be delivered.

Subsequently, any time a change of educational placement for that child occurs, a prior written notice must be given to the parents. For example, if a child no longer needs special education services and is being phased out of special education, a prior written notice must be given. If a child is graduating with a regular diploma, prior written notice must be given.

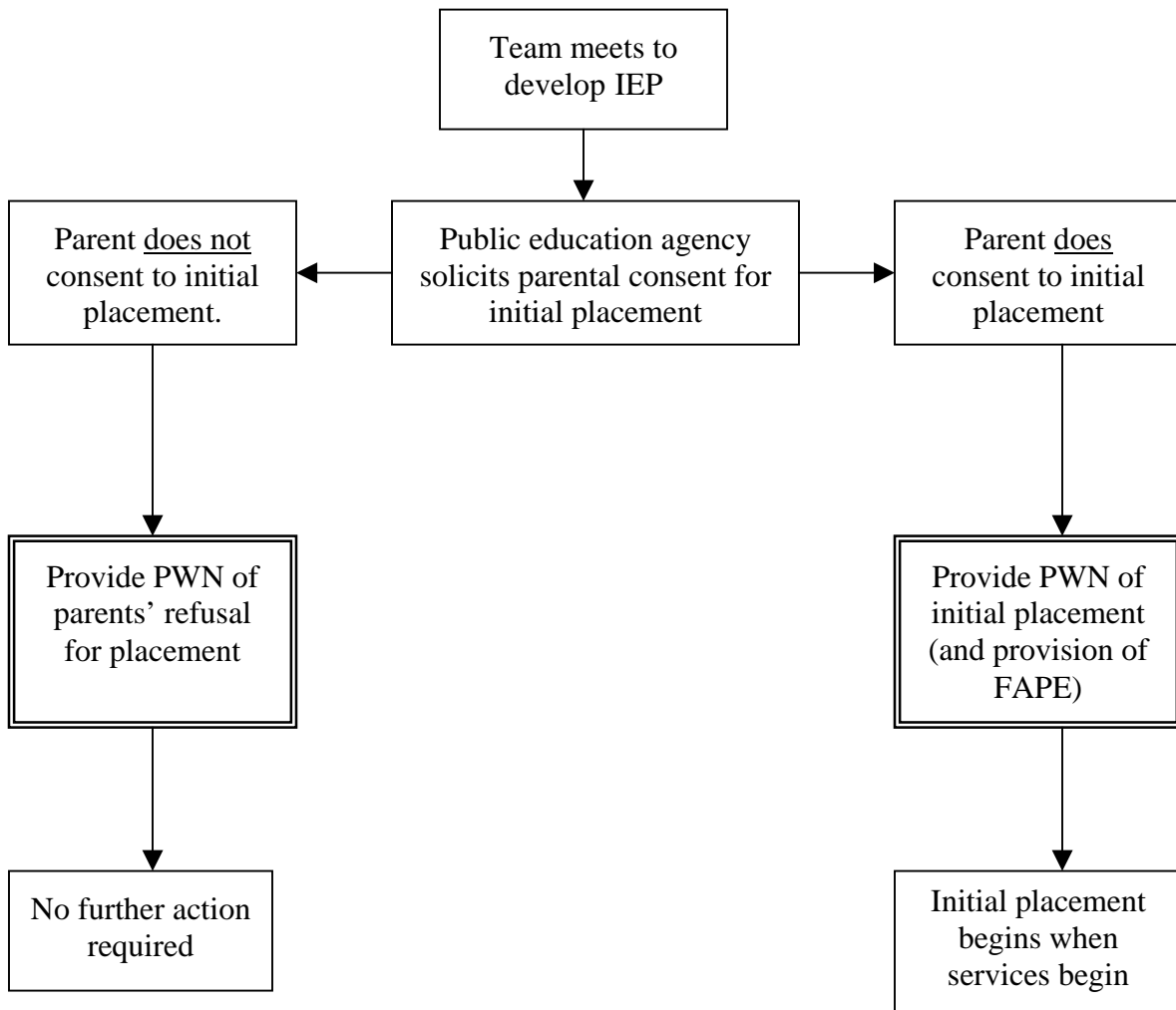
Disciplinary removals of a student from his or her regular classroom activities require that a prior written notice be given to parents because the removals are changes in that child's educational placement. Events such as the following require a prior written notice:

- Disciplinary actions that result in removal of the student for more than 10 consecutive school days
- Disciplinary actions that results in a series of removals of the student that cumulate to more than 10 school days in a school year and that constitute a pattern (because of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another)
- Disciplinary actions that result in removal of the student for up to 45 days to an appropriate interim alternative education setting (IAES) for weapons, illegal drugs, or controlled substances or when a hearing officer decides that maintaining the current placement is substantially likely to result in injury to the child or to others

Purpose of the Prior Written Notice:

The intent of the PWN is to provide parents with written notice of the school's proposal or refusal to carry out an action that affects their child. This school proposal or refusal is a decision that has been reached but not yet acted upon. The notice allows the parents time to seek resolution if they disagree with the school's decisions.

Educational Placement: Initial IEP Chart



FAPE: Definition

Definition:

FAPE (or a free, appropriate public education) is defined as the special education and related services that are provided under public supervision and direction without charge and defined by the standards of the state.

A PWN must summarize the actions proposed or rejected that relate to the provision of FAPE (or the provision of special education services). The prior written notice should also contain the actions and options that were proposed and considered at the meeting but were determined not appropriate for the child.

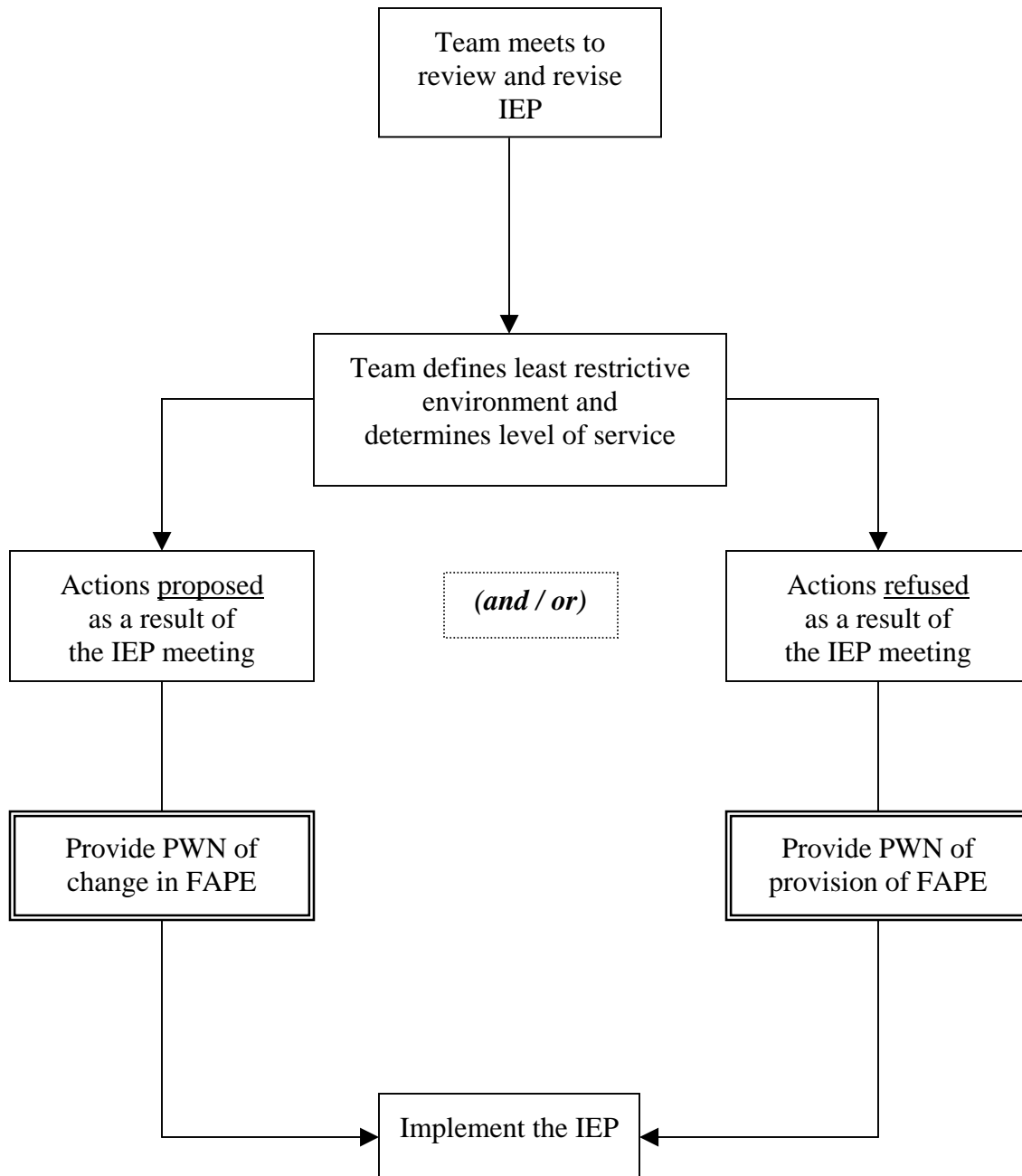
For the initial placement in special education, the IEP team must first determine what constitutes FAPE for the child. Next, the parent must consent to the placement outlined in the student's IEP. The prior written notice provided in this step of the special education process would include the decisions for both proposals and/or refusals in the development of the IEP and the decision to place the student into special education.

One PWN can serve several purposes. It may document an eligibility decision, a FAPE decision, and an initial placement decision if all of the decisions occur within the same meeting. Each of these three actions, proposed or refused, should be outlined on each area of the notice.

Purpose of the Prior Written Notice:

The intent of the PWN is to provide parents with notice of an action **that affects their child** that has been decided upon but not yet acted upon. The notice allows the parents to take steps to stop the action before implementation if they have objections to the action(s).

FAPE: IEP Review Chart



FAPE: Scenario 5

Scenario

Jane's individualized education program (IEP) must be reviewed and revised at least annually.

Summary

Decision—Jane will receive an identified set of services.

Action Proposed—The PEA will deliver the identified services.

Prior Written Notice—A notice is required to document that Jane will receive the identified services (the services proposed will be implemented).

Note: Sources of assistance are not included in the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

FAPE: PWN Example 5

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe Date: May 15, 2004

Agency: PDQ School District Date PWN Sent/Given to Parents: 5/15/04

X *Proposes to initiate or change* the areas as described below; AND/OR
 Refuses to initiate or change the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: Jane's annual IEP review was due by the end of May. The IEP team reviewed Jane's progress and current program. A new IEP was developed with an update of Jane's present levels of performance and appropriate goals. The type of services and frequency of those services will remain the same.

Explanation of why the agency proposes or refuses to take this action: Jane's IEP was about to expire and the IEP's review and revision is required annually by federal law.

Description of any options the agency considered and the reasons why those options were rejected: The IEP team considered decreasing Jane's resource and speech services. Discussion by the team of her articulation errors as well as her current reading level and needs in the regular classroom clearly demonstrated the need for continuing the previous IEP's level of support and service time in both areas.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: The review of progress, goal achievement, and success in the regular classroom indicated that Jane still requires resource pull-out services for reading. Jane's speech skills are continuing to develop and improve with the current level of speech services. The team determined that resource services and speech therapy are still necessary for Jane to make adequate progress. The goals and objectives that impact her ability to be successful in her regular classroom educational program were identified and selected.

Description of any other factors that are relevant to the agency's proposal or refusal: Jane's difficulty with producing initial sounds and blends in pronouncing words continues to impact her reading skills when she sounds out new words. This difficulty was considered when determining Jane's level of services and for adding a bi-monthly consultation service to Jane's regular education teacher by the speech therapist.

Parents of a child with a disability have protection under the procedural safeguards.

 A copy of your procedural safeguards is attached to this notice.

X **A copy of a description of your procedural safeguards may be obtained by contacting the agency at:** (480) 555-2315 and asking for Mary Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

FAPE: Scenario 6

Scenario

Jane's parents have requested that a paraprofessional be assigned to work with Jane the entire school day.

Summary

Decision—Full time paraprofessional service has been considered and rejected. Additional service time with the special education teacher has been considered and increased.

Action Proposed—The student will continue to receive services from a part-time paraprofessional. The special education teacher will increase instructional time to focus on Jane's organizational skills and to reinforce concepts taught in the regular class.

Action Refused—The parental request to increase paraprofessional time has been denied.

Prior Written Notice—A notice is required to document the team's rejection of a request for a full-time paraprofessional and the decision to continue with half-time paraprofessional with special education teacher support. This same PWN documents the IEP revision and the continuation of the part-time paraprofessional.

Note: Sources of assistance are not included in the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

FAPE: PWN Example 6

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe **Date:** 03/03/04

Agency: PDQ School District **Date Prior Written Notice Sent/Given to Parents:** 3/05/04

X *Proposes to initiate or change* the areas as described below; **AND/OR**

X *Refuses to initiate or change* the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: Jane's parents have proposed a full-time paraprofessional be provided for Jane in the classroom.

Explanation of why the agency proposes or refuses to take this action: The IEP team determined upon review of Jane's progress that she is progressing satisfactorily with her current level of services, which includes support from a paraprofessional for a portion of the day during reading, writing, and math instruction in the regular classroom. Jane will receive an additional 30 minutes daily from the special education teacher to support Jane in her goals of developing organizational skills, reinforcing concepts taught in the regular classroom, as well as developing skills of independence.

Description of any options the agency considered and the reasons why those options were rejected: The IEP team reviewed Jane's parent's request for a paraprofessional to be assigned to support Jane throughout her 6-hour school day. After a review of progress of IEP goals, input from Jane's regular education teacher, her special education teacher, and related service providers, the team felt additional aide support would create a dependence on this continuous support, lessening her ability to develop independence and the ability to self-monitor. At this time, Jane has been very successful with part-time help from the paraprofessional who supports two other students along with Jane during the core academic times.

Description of each evaluation procedure, test, record, or report the agency used will use as a basis for the proposed or refused action: Teachers' observations and input, grades, anecdotal records, behavioral and progress reports.

Description of any other factors that are relevant to the agency's proposal or refusal: Jane's aide time was decreased last spring when her current IEP was revised and rewritten. Jane's progress in reading has steadily increased during this school year and other academic areas are showing good growth as well.

Parents of a child with a disability have protection under the procedural safeguards.

 A copy of your procedural safeguards is attached to this notice.

X **A copy of a description of your procedural safeguards may be obtained by contacting the agency at:** (480) 555-3453 and asking for Mary Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

FAPE: Scenario 7

Scenario

Jane's parents, during the annual review of her individualized education program (IEP), have requested that she be placed in a private special day school.

Summary

Decision—The parent has requested placement in a more restrictive environment. The current placement has been reviewed and the team feels it continues to be appropriate.

Action Refused—Jane's placement will not be changed.

Action Proposed—The PEA will deliver the identified services.

Prior Written Notice—A notice is required to document the proposal of revisions to the IEP and continuation of current placement. This PWN will also document the IEP team's *refusal* to change student's current placement to a more restricted environment as a result of parents' request. One PWN can serve to document when both proposals and refusals occur in a single meeting.

Note: Sources of assistance are not included in the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

FAPE: PWN Example 7

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe **Date:** April 3, 2004
Agency: PDQ School District **Date Prior Written Notice Sent/Given to Parents:** 4/03/04

X *Proposes* to *initiate* or *change* the areas as described below; **AND/OR**
X *Refuses* to *initiate* or *change* the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: The IEP team met to review and revise Jane's IEP as part of her required annual review. During this review Jane's parents requested that Jane be placed in a special day program for students with similar disabilities.

Explanation of why the agency proposes or refuses to take this action: Jane's current placement is in a self-contained setting at her home school. The team has determined that this current placement is appropriate and Jane has and is making more than adequate progress. At this time the district self-contained placement is believed to be the least restrictive environment for Jane. An additional advantage for Jane is the program is located at her home school where she has opportunities to be with students of her own age as well as friends from her neighborhood.

Description of any options the agency considered and the reasons why those options were rejected: The team reviewed current data on Jane to determine her present academic as well as social skills. Jane's progress has been steady and encouraging. She has accomplished the majority of her IEP goals. New goals and objectives were selected based on the review of Jane's current levels of performance, her strengths as well as her needs.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: The team reviewed progress reports, grade reports, AIMS-A scores, anecdotal records, and portfolio assessments, as well as input from teachers and related service providers. The data collected during the current IEP year on Jane's goals and objectives achieved was reviewed. This data provided evidence that Jane is making steady gains and is experiencing success in her current setting and program, both academically and socially.

Description of any other factors that are relevant to the agency's proposal or refusal: Reports from teachers and related service providers indicate that Jane's work habits and peer relationships have improved significantly. Her negative and noncompliant behaviors have decreased. She is establishing positive relationships with both staff and peers. The benefits of the current placement are numerous, and the team felt placing Jane in a more restrictive setting in a day school program would limit Jane's expanding social, academic, and self help skills.

Parents of a child with a disability have protection under the procedural safeguards.
 A copy of your procedural safeguards is attached to this notice.

X A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Bob Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Reevaluation: Definition

Definition:

Note: When an already identified special education student needs a three-year reevaluation, the PWN for identification is not necessary because the student has already been identified. In other words, a PWN is not required prior to the first step in the reevaluation process, reviewing existing data.

The first step is for the multidisciplinary evaluation team (MET) to review and summarize existing data so that the team can decide if the information is sufficient to determine continued eligibility. This review includes prior evaluations, information provided by the parents of the child, current classroom-based assessments and performance in the general curriculum, formal assessments such as state and PEA-wide assessments, and teacher and related services provider observations.

While it is clear that parents must be given the opportunity to participate in the review of existing data, it is not an action to which they have a right to object. Parents participate and contribute, but they don't have the right to object to the review taking place—only the actions that are proposed as a result of this review.

On the basis of the review and input from the child's parents, the team next identifies what additional data, if any, are needed to determine:

- Whether the child continues to have a particular category of disability
- The present levels of educational performance and the educational needs of the child
- Whether the child continues to need special education and related services
- Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual goals set out in the IEP

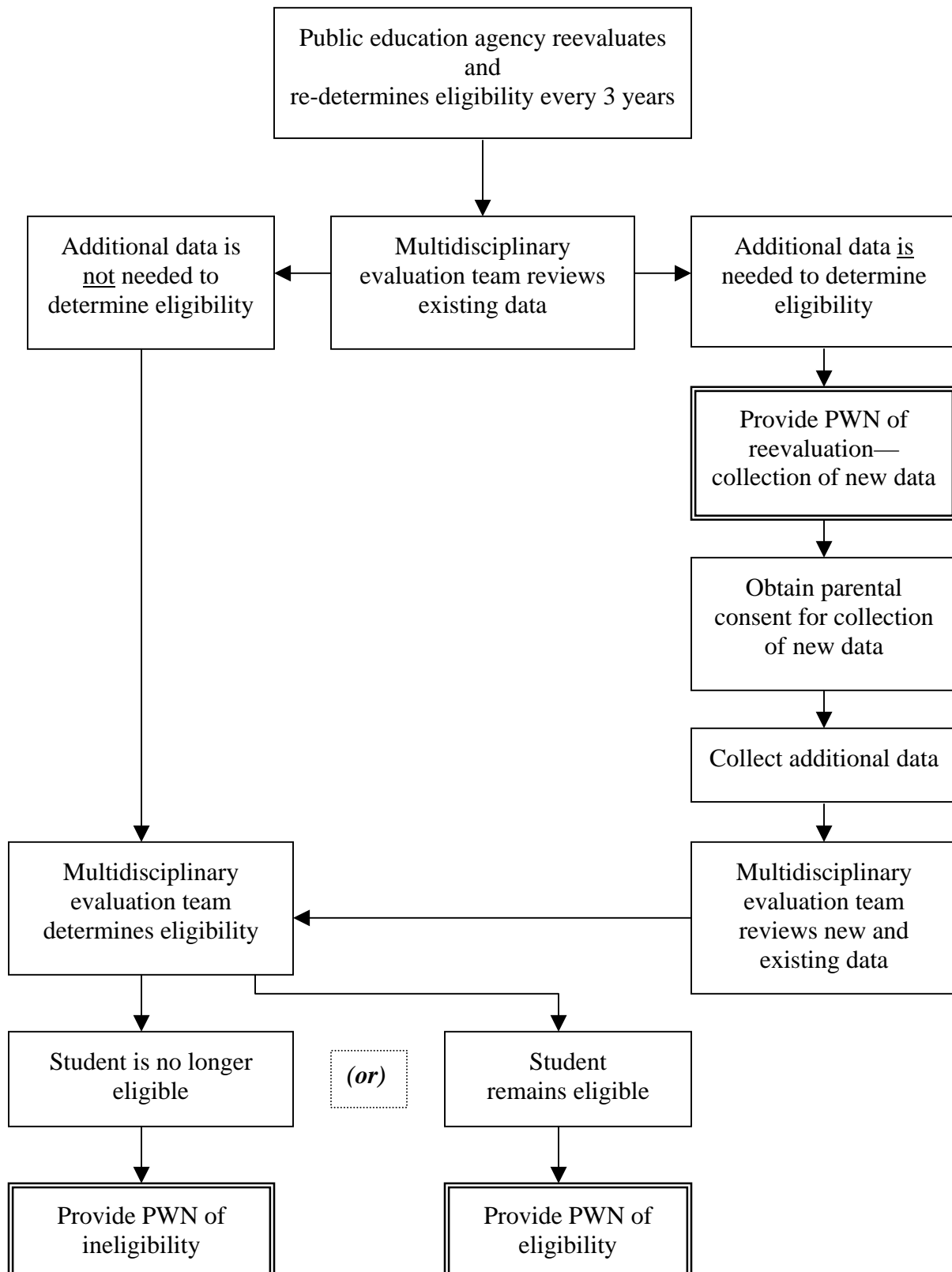
If the MET team determines that no additional data are required, a prior written notice would not be necessary until the eligibility determination is made, possibly at the end of the meeting. This PWN would outline the MET team's reasons for not collecting additional data, as well as the eligibility decision.

If the team determines that additional assessments are required as part of the child's reevaluation, the team must document this decision and the reasons for this decision, as well as describe the evaluation procedures that will be administered. When additional information is required, a prior written notice must be provided.

The last step is for the team to determine if the child continues to meet the criteria for a disability category. If the child no longer requires special education and related services, the student is dismissed from special education services.

One PWN can serve as documentation when an eligibility decision and FAPE decision (IEP review) occur within the same meeting. Each of these two actions, proposed or refused, should be included in each area of the notice.

Reevaluation: Chart



Reevaluation: Scenario 8

Scenario

Jane's parents have requested in writing that a reevaluation be completed as soon as possible. They feel her educational needs have changed.

Summary

Decision—Jane's parents have requested a reevaluation before the current evaluation is due to expire. The team has reviewed Jane's progress and records. The PEA refuses to collect additional data at this time. The child will not be reevaluated and additional data will not be collected.

Action Refused—The PEA will not honor the parent request for reevaluation.

Prior Written Notice—A notice is required to document the PEA's refusal to complete the requested reevaluation.

Note: Sources of assistance are not included in the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

Reevaluation: PWN Example 8

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe Date: 01/03/04

Agency: PDQ Charter School Date PWN Sent/Given to Parents: 01/06/04

 Proposes to *initiate* or *change* the areas as described below; **AND/OR**

 X *Refuses* to *initiate* or *change* the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: Jane Doe's parents have requested a reevaluation with the collection of new information. The prior evaluation was completed 15 months prior to this request.

Explanation of why the agency proposes or refuses to take this action: Jane's IEP team reviewed this request and determined that a full comprehensive evaluation was conducted at the beginning of last school year. Jane's strengths and needs are currently the same and the team does not suspect Jane of having any additional areas of disability.

Description of any options the agency considered and the reasons why those options were rejected: The team reviewed the current data on Jane and determined that it was comprehensive and complete. No additional data was felt to be necessary and that this current evaluation data continues to indicate that Jane meets the eligibility criteria for a student with specific learning disability.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: Progress and report cards, parental input, teachers' input and observations, standardized scores on the Stanford Achievement Test (SAT 9), AIMS scores, anecdotal reports, portfolio assessments and the current evaluation completed at the beginning of the last school year.

Description of any other factors that are relevant to the agency's proposal or refusal: It is projected that Jane will achieve all her IEP goals for this current IEP year. Jane's progress in both the resource program and in the regular classroom setting continues to be appropriate.

Parents of a child with a disability have protection under the procedural safeguards.

 X A copy of your procedural safeguards is attached to this notice.

 A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Bob Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Reevaluation: Scenario 9

Scenario

Jane's three year or triennial evaluation is due. The MET team, upon reviewing existing data, has decided that additional assessment is necessary to determine the possible need for occupational therapy as a related service.

Summary

Decision—The team needs more information to determine the need for related services.

Action Proposed—The team has determined that an occupational therapy evaluation is additional data necessary to complete Jane's three-year reevaluation.

Prior Written Notice—A notice is required to document the decision to collect additional data. (Note: Parent consent is also required prior to collecting new data.)

Note: Sources of assistance are not included in the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

Reevaluation: PWN Example 9

PRIOR WRITTEN NOTICE (34 CFR §300.504)

Student Name: Jane Doe Date: October 15, 2003

Agency: PDQ Charter School Date PWN Sent/Given to Parents: 10/15/03

X *Proposes to initiate or change* the areas as described below; **AND/OR**
 Refuses to initiate or change the areas as described below;

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: The MET team, which included Jane's parents, gathered and reviewed information on Jane and her current performance. The team determined that more information was needed in the areas of fine motor skills. This new information will help the team in determining Jane's eligibility for special education as part of a required three-year reevaluation.

Explanation of why the agency proposes or refuses to take this action: Jane is having difficulty printing numbers and letters on paper. As a result the team felt an occupational therapy evaluation would provide valuable information.

Description of any options the agency considered and the reasons why those options were rejected: The team considered only using Jane's existing information but felt evaluations by a certified occupational therapist would best determine if OT services are necessary as well as assisting Jane's IEP team and teachers in determining specific classroom accommodations.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: Various instruments will be utilized to determine Jane's fine motor abilities. The occupational therapist will choose the appropriate assessments to assess her needs. Assessments may include the Berry Visual Motor Inventory, the Motor Free Visual Performance, Developmental Test of Visual Perception, and the Peabody Developmental Motor Scales.

Description of any other factors that are relevant to the agency's proposal or refusal: Jane is becoming more frustrated in language arts and math activities that require any type of written response.

Parents of a child with a disability have protection under the procedural safeguards.

X A copy of your procedural safeguards is attached to this notice.

 A copy of a description of your procedural safeguards may be obtained by contacting the agency at: (480) 555-2315 and asking for Bob Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Reevaluation: Scenario 10

Scenario

The MET team has determined, from a review of current and existing data, that Jane no longer qualifies as a student with a disability.

Summary

Decision—Jane is no longer eligible for special education.

Action Proposed—Jane will return to the regular education classroom and will no longer receive special education.

Prior Written Notice—A notice is required to document that Jane no longer meets the criteria for an eligibility category and is not in need of specialized instruction because the disability no longer impacts her ability to be successful in the general curriculum.

Note: Sources of assistance are not included in the PWN example that follows. Be sure to include sources of assistance on your prior written notices.

Reevaluation: PWN Example 10

PRIOR WRITTEN NOTICE (PWN) (34 CFR §300.504)

Student Name: Jane Doe Date: November 20, 2003
Agency: PDQ Charter School Date PWN Sent/Given to Parents: 11/20/03

X *Proposes to initiate or change* the areas as described below, **AND/OR**
 Refuses to initiate or change the areas as described below,

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, review/revision of the individualized education program (IEP), educational placement, or provision of a free appropriate public education (FAPE)* by the agency: Jane's determination for continued eligibility as a student with a disability was due by the end of next month. The team reviewed all current existing data as the first step in the reevaluation process. The team determined that this data was sufficient to re-determine Jane's eligibility. The team, based on this review of existing data, determined that Jane no longer meets the eligibility criteria for specific learning disability in reading and writing.

Explanation of why the agency proposes or refuses to take this action: Federal law (IDEA) requires that a reevaluation for the continued determination of eligibility be completed every three years. The team determined that no more data was necessary. Jane's parents were notified of their right to request additional data.

Description of any options the agency considered and the reasons why those options were rejected: The MET, based on this review of existing data, also determined that Jane does not qualify for any other disability category.

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: The team determined that the testing from the prior evaluation done in 2000 was still current. Achievement data was reviewed from Jane's most recent SAT 9 and AIMS scores. The current school year's grades, progress reports, the special education as well as regular teacher's input and feedback, along with samples of Jane's work in the areas of reading and writing, were reviewed.

Description of any other factors that are relevant to the agency's proposal or refusal: Jane has demonstrated marked achievement in the areas of reading and writing. She is fully included in the regular class and has been receiving minimal support from the special education teacher. Her achievement scores and grade reports indicate Jane is now performing at grade level. Both of Jane's teachers feel she is able to maintain without special education services.

Parents of a child with a disability have protection under the procedural safeguards.

X **A copy of your procedural safeguards is attached to this notice.**

 A copy of a description of your procedural safeguards may be obtained by contacting the agency at: 480 555-2315 and asking for Paul Smith.

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Answers to Test Your Current Knowledge

How Well Did You Score on the Prior Written Notice Quiz?

1. Under what circumstances must a public agency provide a PWN to parents?

Section 300.503 states that the public must give the parents a prior written notice a reasonable time before the public agency proposes to initiate or change, or refuses to initiate a change in identification, evaluation, educational placement, or the provision of a free appropriate public education (FAPE).

2. Is a PWN required when a public agency conducts screening with all students in a school, grade, or class?

No. If the screening includes basic tests that are administered to all students, or procedures that are used with all students in a school, grade, or class, then prior written notice is not required.

3. Is a PWN required when a public agency makes a referral for a special education evaluation?

Yes. This constitutes identification of the student as a possible child with a disability and requires prior written notice be sent to the parents.

4. Is a public agency responsible for sending a PWN before gathering existing evaluation data?

No. The public agency is not required to send prior written notice before gathering existing evaluation data **but** a PWN with a copy of the safeguards would have been provided prior to this review since the PEA had identified the student as a student with a possible disability.

5. Is a public agency responsible for providing a PWN before collecting additional evaluation data (administering intellectual assessments, achievement tests, personality tests, etc.)?

Yes. Section 300.503(a) (1) states that written notice shall be given to the parent a reasonable time before it proposes to initiate or change the evaluation of a student with a disability.

6. Must a public agency provide a PWN to a parent before conducting an IEP meeting?

No. Section 300.503 does not require the public agency to provide a prior written notice before the IEP meeting. No proposal exists until the IEP team has made its decisions. A meeting notice and procedural safeguards notice must be sent.

7. Is it necessary for a public agency to provide a PWN before implementing the proposed IEP?

Yes. Section 300.503(a) (1) states that written notice shall be given to the parent a reasonable time before it proposes, or refuses to change the provision of FAPE.

8. Does a public agency have to send a PWN to assess a student's progress on annual goals?

No. It is not necessary to provide a prior written notice to assess a student's progress on annual goals. The IEP includes a statement of how the student's progress toward annual goals will be measured, how the child's parents will be informed, and the extent to which that progress is sufficient to enable the student to achieve the goals by the end of the year.

9. Does a public agency have to provide a PWN when proposing or refusing to change special education or related services on the IEP?

Yes. Refusing to change a statement of special education and related services on an IEP impacts the provision of FAPE. Section 300.503(a) (1) states that written notice shall be given to the parent a reasonable time before it proposes or refuses to change the provision of FAPE.

10. Is a public agency responsible for providing a PWN when proposing or refusing to change annual goals, modifications, or accommodations on an existing IEP?

Yes. Proposing to change or refusing to change annual goal(s), modifications, or accommodations on an existing IEP impacts the provision of FAPE. Section 300.503(a) (1) states that written notice shall be given to the parent a reasonable time before it proposes or refuses to change the provision of FAPE.

11. Does a public agency have to provide a PWN to change the educational placement (LRE)?

Yes. Section 300.503(a) (1) requires that written notice shall be given to the parent a reasonable time before it proposes or refuses to change the educational placement of a child.

12. Is a PWN required when a public agency promotes a student from one grade to another grade?

No. It is not necessary to provide prior written when a student is promoted from one grade to another grade.

13. Is a public agency responsible for providing a PWN when the special education program is being moved from one location to another?

The public agency is **not** required to provide prior written notice to the parents when the special education program is being moved from one school to another or one classroom to

another, if the IEP is not being changed. However, alerting the parents of those students is necessary in order that they are aware of where their children will be attending school or classes. If the move is from one school to another, it may involve changes in transportation.

14. For a student with a disability who graduates or who is no longer a student with a disability, is a public agency responsible for providing a PWN before such termination?

Yes. Graduation or termination of services for any reason constitutes a change in educational placement. Therefore, the public agency must provide a written notice a reasonable time before a student graduates, or before the public agency determines that the student is no longer a student with a disability.

15. Is a PWN required when a public agency removes a student to an interim alternative educational setting (IAES) for not more than 45 calendar days for a weapons or drugs offense?

Yes. Section 300.503(a)(1) requires that written notice shall be given to the parent(s) a reasonable time before the public agency proposes to initiate a change, or refuses to change the educational placement. Under §300.520 (a) (2) a public agency may order a change in placement to an appropriate IAES for the same amount of time that a child without a disability would be subject to discipline, but for not more than 45 calendar days for carrying a weapon to school or to a school function or for knowingly possessing/using or selling/soliciting the sale of a controlled substance while at school or a school function.

All 15 correct

Give yourself a standing ovation. You'll be able to handle unforeseen complaints and due process proceedings with ease because you're documenting your decisions with PWNs. Be prepared to impart your knowledge to your friends in the field who are less astute than you.

12 correct

Give yourself a rousing cheer. You are well prepared for most special education situations. There are possibly a few points you'll want to review so that your prior written notices will cover all the situations that might need a notice.

9 correct

Give yourself a happy face. You got more than half correct. (We just hope it's the half you need to know before your next IEP meeting.) Find out where your weaknesses lie and read the aspects of this document that address areas that are giving you trouble.

6 correct

Give yourself a reminder. You'll want to schedule time for reading this document thoroughly before your next IEP meetings. Pull out the charts and post them where you might need them.

3 or fewer correct

Give yourself a break (a stretch break, that is). You've got a lot to learn and the sooner you get started the better. Get yourself a study buddy and read the definitions, use the scenarios and example prior written notices to go over together.

Helpful Tips for Creating a Compliant Prior Written Notice

- ☐ Complete all of the items on the prior written notice form. Avoid using phrases and terms such as “N/A,” “not applicable,” or “see above.”
- ☐ Ensure that each item of information on the form is understandable on its own merit; don’t rely on another form or another piece of information to convey information that the PWN must communicate.
- ☐ When asked to “describe” on the form, provide a comprehensive written account or list the required items.
- ☐ When asked to “explain” on the form, provide an adequate justification or reason for the action.
- ☐ Write the PWN as if you are explaining the items on this notice to a reader who is not conversant with special education or the special education process. Avoid abbreviations, unfamiliar terminology, and educational jargon that may not be understood by all readers, especially when a new student is being evaluated or placed.
- ☐ If the form is completed by the conclusion of a meeting with the parent, review it carefully with the parent.
- ☐ Ensure that the form is translated, if necessary. If the parent has a written language other than English, provide this notice in that language.
- ☐ Be sure the form is dated and the date is correct.
- ☐ Write legibly in handwriting that is large enough and legible enough to be easily read and understood by all readers.
- ☐ Use conventional grammar and correct spelling.
- ☐ Use a writing instrument that produces handwriting that will copy or fax clearly.
- ☐ Remember to provide a copy of the procedural safeguards notice (PSN) to the parent. If the safeguards did not accompany the meeting notice for that particular meeting, provide them at the conclusion of the meeting and document the provision on the prior written notice. If the PSN was sent with the meeting notice, then offer the safeguards again when you provide prior written notice (PWN) at the conclusion of the meeting and document the offering of PSN on the PWN.

Federal Law and Regulations

Individuals With Disabilities Education Act (IDEA '97)

20 U.S.C. §1415 (b) and (c)

(b) **Types of Procedures**—The procedures required by this section shall include—

(3) written prior notice to the parents of the child whenever such agency—

(A) proposes to initiate or change; or

(B) refuses to initiate or change;

the identification, evaluation, or educational placement of the child, in accordance with subsection (c), or the provision of a free appropriate public education to the child;

(4) procedures designed to ensure that the notice required by paragraph (3) is in the native language of the parents, unless it clearly is not feasible to do so;

(c) **Content of prior written notice**—The notice required by subsection (b)(3) shall include—

(1) a description of the action proposed or refused by the agency;

(2) an explanation of why the agency proposes or refuses to take the action;

(3) a description of any other options that the agency considered and the reasons why those options were rejected;

(4) a description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;

(5) a description of any other factors that are relevant to the agency's proposal or refusal;

(6) a statement that the parents of a child with a disability have protection under the procedural safeguards of this part [20 U.S.C. §§ 1411 et seq.] and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and

(7) sources for parents to contact to obtain assistance in understanding the provisions of this part.

Federal Regulations

34 CFR §300.503

§300.503 Prior notice by the public agency; content of notice:

(a) Notice.

- (1) Written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency—
 - (i) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
 - (ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.
- (2) If the notice described under paragraph (a)(1) of this section relates to an action proposed by the public agency that also requires parental consent under §300.505, the agency may give notice at the same time it requests parent consent.

(b) Content of notice. The notice required under paragraph (a) of this section must include-

- (1) A description of the action proposed or refused by the agency;
- (2) An explanation of why the agency proposes or refuses to take the action;
- (3) A description of any other options that the agency considered and the reasons why those options were rejected;
- (4) A description of each evaluation procedure, test, record, or report the agency used as a basis for the proposed or refused action;
- (5) A description of any other factors that are relevant to the agency's proposal or refusal;
- (6) A statement that the parents of a child with a disability have protection under the procedural safeguards of this part and, if this notice is not an initial referral for evaluation, the means by which a copy of a description of the procedural safeguards can be obtained; and
- (7) Sources for parents to contact to obtain assistance in understanding the provisions of this part.

(c) Notice in understandable language.

- (1) The notice required under paragraph (a) of this section must be—
 - (i) Written in language understandable to the general public; and

- (ii) Provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.
- (2) If the native language or other mode of communication of the parent is not a written language, the public agency shall take steps to ensure—
 - (i) That the notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
 - (ii) That the parent understands the content of the notice; and
 - (iii) That there is written evidence that the requirements in paragraphs (c)(2)(i) and (ii) of this section have been met.

Arizona Revised Statutes

A.R.S. 15-761 (27)

“Prior written notice” means notice, as defined in 20 United States Code sections 1414 and 1415, that includes a description of the action proposed or refused by the school, an explanation of why the school proposes or refuses to take the action, a description of any options the school considered and the reasons why those options were rejected, a description of each evaluation procedure, test, record, or report the school used as a basis for the proposal or refusal, a description of any other factors that were relevant to the school’s proposal or refusal, a full explanation of all of the procedural safeguards available to the parent and a listing of sources for parents to contact to obtain assistance in understanding the notice.

Samples of Prior Written Notice Forms

Sample 1

PRIOR WRITTEN NOTICE (PWN) (34 C.F.R. §300.504)

Student Name: _____ Date: _____

Agency: _____ Date PWN Sent/Given to Parents: _____

_____ **Proposes** to *initiate* or *change* the areas as described below, **AND/OR**

_____ **Refuses** to *initiate* or *change* the areas as described below,

Description of the action proposed or refused relative to *identification, evaluation/reevaluation, educational placement, or provision of a Free Appropriate Public Education (FAPE)* by the agency:

Explanation of why the agency proposes or refuses to take this action:

Description of any options the agency considered and the reasons why those options were rejected:

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action:

Description of any other factors that are relevant to the agency's proposal or refusal:

Parents of a child with a disability have protection under the procedural safeguards.

_____ A copy of your procedural safeguards is attached to this notice.

_____ A copy of a description of your procedural safeguards may be obtained by contacting the agency at: _____

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

If you have questions or need assistance in understanding your procedural safeguards you may contact the agency providing educational services to your child or by contacting the other agencies listed below:

Public Agency:	Arizona Department of Education 1535 West Jefferson Phoenix, AZ 85007 602-364-4000 or 1-800-352-4558
Parent Information Network Specialist 602-542-3852 1-800-352-4558	AZ Center for Disability Law Tucson 520-327-9547 or 1-800-922-1447 Phoenix 602-274-6287 or 1-800-927-2260

Sample 2

PRIOR WRITTEN NOTICE

§300.503

Date of Notice _____ Name of School _____
Primary Language of the Home: _____ Interpreter needed: ☐ YES ☐ NO
Student Name _____ DOB _____

☐ Action proposed and or ☐ Action refused

☐ Identification ☐ Evaluation ☐ Education Placement ☐ Provision of FAPE

An explanation of why the public agency proposed or refused to take action.

A description of any options that the public agency considered and the reasons those were rejected.

A description of each evaluation procedure, test, records, or report the public agency used as a basis for the proposed or refused action.

A description of other factors that are relevant to the public agency's proposal or refusal.

Parents of a child with a disability have protection under the procedural safeguards.

___ Procedural safeguard notice is attached.

___ A copy of procedural safeguards notice can be obtained by calling: _____
_____ at _____

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

Sources for assistance in understanding procedural safeguards are listed below:

Raising Special Kids 2400 N. Central Avenue, Suite 200 Phoenix, AZ 85004 602-242-4366 or 1-800-237-3007	Arizona Department of Education 1535 West Jefferson Phoenix, AZ 85007 602-364-4000, or 1-800-352-4558
Parent Information Network Specialist 602-542-3852 1-800-352-4558	AZ Center for Disability Law Tucson 520-327-9547 or 1-800-922-1447 Phoenix 602-274-6287 or 1-800-927-2260

Sample 3

PRIOR WRITTEN NOTICE (34 CFR §300.503)

Date Prior Written Notice Sent/Given to Parents: _____

Student Name: _____ Date of Birth: _____

School Name: _____ Primary Language of Home: _____

_____ ***Proposes*** to ***initiate*** or ***change*** the areas as described below; **AND/OR**

_____ ***Refuses*** to ***initiate*** or ***change*** the areas as described below;

Description of the action proposed or refused relative to

_____ *Identification*

_____ *Provision of Free Appropriate Public Education (FAPE)*

_____ *Evaluation/Re-evaluation*

_____ *Other:*

_____ *Educational placement*

Explanation of why the agency proposes or refuses to take this action: _____

Description of any options the agency considered and the reasons why those options were rejected: _____

Description of each evaluation procedure, test, record, or report the agency used/will use as a basis for the proposed or refused action: _____

Description of any other factors that are relevant to the agency's proposal or refusal: _____

Parents of a child with a disability have protection under the procedural safeguards.

_____ A copy of your procedural safeguards is attached to this notice.

_____ A copy of a description of your procedural safeguards may be obtained by contacting the agency at, _____

At a minimum, the provision of procedural safeguards is required for initial referral for evaluation, IEP meeting notification, reevaluation and upon receipt of a request for due process.

If you have questions or need assistance in understanding your procedural safeguards, you may contact the agency providing educational services to your child or contact one of the other agencies listed below:

Local Public Agency Information

Arizona Department of Education
1535 W. Jefferson
Phoenix, AZ 85007
602- 364-4000; 1-800-352-4558

Raising Special Kids
2400 N. Central Avenue, Suite 200
Phoenix, AZ 85004
602-242-4366 1-800-237-3007

Arizona Center for Disability Law
3839 N. 3rd St., Suite 209
Phoenix, AZ 85012
Phoenix 1-800-927-2260 Tucson. 1-800-992-1447